

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

HIGHLY CONFIDENTIAL  
VIDEOTAPED DEPOSITION OF DAVID KING  
SAN FRANCISCO, CALIFORNIA  
FRIDAY, DECEMBER 12, 2008

BY: ANDREA M. IGNACIO HOWARD, CSR, RPR, CCRR, CLR  
CSR LICENSE NO. 9830  
JOB NO. 16211

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DECEMBER 12, 2008

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9:14 a.m.

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HIGHLY CONFIDENTIAL VIDEOTAPED DEPOSITION OF  
DAVID KING, SHEARMAN & STERLING, 525 Market  
Street, San Francisco, California, pursuant to  
notice, before ANDREA M. IGNACIO HOWARD, CLR,  
CCRR, RPR, CSR License No. 9830.

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1 A P P E A R A N C E S:

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1 A P P E A R A N C E S (Continued.)

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3 FOR THE DEFENDANTS YOUTUBE, INC., YOUTUBE, LLC and

4 GOOGLE, INC.:

5 MAYER BROWN LLP

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12

13 ALSO PRESENT:

14 CATHERINE LACAVERA, Google

15 KELLY TRUELOVE, Consultant

16 KEN REESER, Videographer.

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1 KING

13:33:23 2 content."

13:33:25 3 Do you understand what that statement means?

13:33:30 4 A I do understand what that statement means,

13:33:31 5 and that is an incorrect statement, and it was an

13:33:34 6 incorrect statement as of February 2008.

13:33:37 7 Q I see.

13:33:38 8 And -- and what's incorrect about it?

13:33:41 9 A Publishers could place a claim on content

13:33:47 10 and, in fact, had done so as of that date.

13:33:50 11 Q Okay. Now, what audio fingerprinting

13:33:55 12 technology was YouTube using at the time of this

13:33:59 13 e-mail? This is February 1, 2008.

13:34:05 14 MR. MANCINI: Objection to form.

13:34:06 15 THE WITNESS: I'm trying to place myself back

13:34:15 16 in February. Certainly at that time YouTube was using

13:34:21 17 audio fingerprinting technology from Audible Magic. I

13:34:26 18 believe, but I may be mistaken in the matter of

13:34:29 19 precise dates, that Google has a audio fingerprinting

13:34:37 20 platform of its own, and I believe that it had been in

13:34:43 21 operation by February of 2008, but once again, it --

13:34:48 22 I -- I might be slightly off --

13:34:48 23 MR. HART: Okay.

13:34:51 24 THE WITNESS: -- in -- by a matter of months.

13:34:52 25 Q Okay. Sitting here today, is YouTube still

1 KING

13:34:56 2 using Audible Magic for audio fingerprinting?

13:35:00 3 A Yes, YouTube is still using Audible Magic for

13:35:03 4 fingerprinting -- audio fingerprinting.

13:35:04 5 Q Audio fingerprinting?

13:35:06 6 A Audio fingerprinting.

13:35:07 7 Q And is YouTube also using a Google audio

13:35:11 8 fingerprinting technology as well?

13:35:13 9 A Yes, YouTube is using a Google-powered audio

13:35:18 10 fingerprinting technology concurrently.

13:35:23 11 Q Okay. And how does one create a fingerprint

13:35:32 12 for the Google audio fingerprinting technology?

13:35:38 13 Did that require a content owner to submit

13:35:40 14 the content to YouTube or Google to have a fingerprint

13:35:45 15 created?

13:35:45 16 MR. MANCINI: Objection; lacks foundation;

13:35:47 17 and objection to form.

13:35:51 18 THE WITNESS: No, it does not require

13:35:57 19 submission of content to Google.

13:35:58 20 MR. HART: Okay.

13:35:58 21 Q Is the fingerprinting tool available to

13:36:02 22 content owners so that they can create the

13:36:05 23 fingerprints themselves?

13:36:06 24 MR. MANCINI: Objection; lacks foundation;

13:36:08 25 and objection to form.